

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

Lahneen Slantis,	:	
Plaintiff	:	
v.	:	Case No.: 1:09-CV-0049
Capozzi & Associates, P.C.,	:	
Defendant	:	<i>Electronically Filed</i>

**DEFENDANT'S MOTION IN OPPOSITION TO PLAINTIFF'S MOTION TO
DISQUALIFY DEFENDANT'S COUNSEL**

NOW COMES, Defendant, Capozzi & Associates, P.C. ("Capozzi & Associates") and files this Motion in Opposition to Plaintiff's Motion to Disqualify Defendant's Counsel as follows:

1. Plaintiff filed a Motion to Disqualify Defendant's Counsel on the grounds that two attorneys affiliated with the firm, Louis J. Capozzi, Jr. and Andrew Eisemann, have been selected by the Plaintiffs as witnesses in the merits of the case.
2. Plaintiff seeks to disqualify as counsel for the firm Trudy A. Marietta Mintz, an associate with Capozzi and Associates.
3. Plaintiff avers in their Brief in Support of their Motion that any attorney in the firm is a likely witness and that, as such, no attorney in the firm of Capozzi and Associates may represent the Defendant.
4. Plaintiff has not named Trudy A. Marietta Mintz as a witness nor have they sought information regarding any potential involvement or knowledge that she may or may not have had with the matter at issue.

5. Trudy A. Marietta Mintz was not employed or associated in any way with the firm of Capozzi and Associates at the time of the event at issue and as such had no involvement, participation or personal knowledge of the events.
6. Trudy A. Marietta Mintz has no participation in the management or policy decisions at Capozzi and Associates.
7. L.R. 43.1, the rule cited by the Plaintiff as grounds for disqualifying Trudy A. Marietta Mintz as counsel for the Defendant is not applicable because it applies only to attorneys who become a witness and give evidence.
8. Trudy A. Marietta Mintz can not become a witness because she had no involvement in the matter at issue, was not present at the firm at the time of the event at issue and has no firsthand knowledge of any firm practices during this time.
9. L.R. 43.1 does not state that a required withdrawal of an attorney applies to the attorney's entire firm. Rather, it applies only to an attorney who actually becomes a witness and gives evidence.

WHEREFORE, Defendant respectfully requests that this Honorable Court not grant the requested Order by the Plaintiff and allow Trudy A. Marietta Mintz to remain as counsel of record for the Defendant in the above captioned matter.

Respectfully submitted,

s/ Trudy A. Marietta Mintz
TRUDY A. MARIETTA MINTZ, ESQ.
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CERTIFICATE OF SERVICE

I, Trudy A. Marietta Mintz, hereby certify that on this sixth day of July, 2009, a true and correct copy of the foregoing Defendant's Motion in Opposition to Plaintiff's Motion to Disqualify Defendant's Counsel was served upon the below named persons via the Court's electronic filing systems:

Gordon R. Leech, Esq.
Samster, Konkel & Safran, SC
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s/ Trudy A. Marietta Mintz
TRUDY A. MARIETTA MINTZ